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STATEMENT OF THE AMERICAN PUBLIC POWER ASSOCIATION ON HB 6510 SUBMITTED FOR THE RECORD OF THE HEARING HELD ON TUESDAY, FEBRUARY 24, 2009 BEFORE THE JOINT ENERGY AND TECHNOLOGY COMMITTEE OF THE CONNECTICUT STATE LEGISLATURE

The American Public Power Association (APPA) appreciates the opportunity to submit this statement in support of the creation of a state power authority in Connecticut. Such an entity, if properly designed, would have the potential to remedy some of the reliability and cost difficulties facing consumers in retail choice states located within restructured wholesale markets operated by regional transmission organizations (RTOs) under the jurisdiction of the Federal Energy Regulatory Commission (FERC). Connecticut, which is located within the RTO market operated by ISO New England, has been particularly impacted by these difficulties.

APPA is the national service organization representing the interests of the more than 2,000 not-for-profit, publicly owned electric utilities throughout the United States that collectively serve more than 45 million consumers. Public power systems provide over 15 percent of all kilowatt-hour (kWh) sales to ultimate customers, and provide service in every state except Hawaii. In Connecticut, there are eight public power utilities serving over 71,000 customers. APPA member utilities are owned by the communities they serve, operate on a not-for-profit basis, and have retained the legal obligation to provide retail electric service to their customers. Since they are owned by the customers they serve and have no outside shareholders, all costs are passed through directly to the customer.

Public power systems own approximately 10 percent of the nation's electric generating capacity, but purchase nearly 70 percent of the power used to serve their ultimate consumers from the wholesale market. Public power systems therefore have an abiding interest in well-functioning wholesale power-supply markets. Their goal is to provide the retail customers they serve with reliable electric power and energy at the lowest reasonable cost, consistent with good environmental stewardship. Artificially rising prices without improvements in reliability of service and other problems with the centralized wholesale markets administered by RTOs however, have made meeting these goals difficult for many net-buyer public power systems located in RTO regions.

Exacerbating the ongoing problems of RTO markets is the recent financial crisis and economic recession, which have made financing new clean generation sources difficult, and at the same time made customers more vulnerable to increases in electricity rates. Such events make it even more critical that the FERC's policies on wholesale markets in RTO regions be revamped to

ensure that long-term reliability and environmental benefits are achieved without excess costs to consumers.

Last week APPA released its proposed reforms to the RTO markets in what we call the "Competitive Market Plan."[1] Central to this plan are measures designed to move the wholesale power market away from excessive influence of the problematic short-term energy and capacity markets and to a vibrant bilateral supply and demand-side resource market, as well as load-serving entity ownership of resources. Many of our recommendations are aimed at the RTOs under federal jurisdiction. These include a requirement that bids into markets for short-term procurement of energy and ancillary services be limited to marginal costs, as well as implementation of RTO-determined region-wide resource adequacy requirements, and planning for transmission facilities and service to support LSE-owned and contracted-for resources.

A key component of this plan is a set of recommendations for actions to be taken by the retail access states. APPA sees these actions as critical to the success of reforms to wholesale markets. The power purchases that incumbent investor-owned utilities in retail access states make to support default supply service to "standard offer service" or SOS customers have a substantial impact on wholesale market prices. In such states, the power supplies used to provide SOS are typically purchased through state-run auctions for relatively short-term (usually two- to four-year) contracts. The prices offered under these contracts are frequently based on forward projections of the prices likely to be set in RTO-run centralized spot markets. The relatively short-term nature of the SOS procurement auctions have reinforced the connection between RTO-run spot market prices and bilateral contract prices, rather than allowing bilateral contract prices to act as a check on spot market prices. With few customers shopping in many retail choice states, individual homeowners and businesses are feeling the direct effects of the dysfunctional wholesale market through increased electricity rates, without corresponding improvements in reliability or clean energy.

APPA therefore recommends in its plan that first, state public service commissions establish competitive power supply procurement processes to develop diversified resource portfolios for incumbent IOU LSEs, with a significant portion of their power supplies being obtained under longer-term contracts or owned-generation arrangements. Second, as part of such an improved SOS power supply procurement process, retail access states should allow their incumbent IOUs to consider "self-builds" as generation resource options. APPA also recommends that states explore the possibility of partnerships between IOUs and local public power to bring new generation and transmission resource options to fruition.

APPA commends actions taken to date by Connecticut, including reviving an Integrated Resource Planning process, issuing an RFP for peaking plants to be paid rates based on cost, allowing LSEs to sign long-term contracts, and establishing comprehensive and well-funded energy conservation and renewable energy programs.

The creation of a state power authority, such as the Connecticut Electric Authority under proposed House Bill 6510, has the potential to supplement such progress. For example, as

[1] APPA's Competitive Market Plan A Roadmap for Reforming Wholesale Electricity Markets, February 2009, www.appanet.org

Robert McCullough pointed out in his testimony last April, a power authority would have the ability to finance projects with high capital cost requirements, such as renewable energy facilities[2]. Under the restructured wholesale and retail markets, the lack of a stable revenue source has made financing of electricity infrastructure more difficult, which has been compounded by the financial crisis and tightening of the credit markets. Public power tends to have higher credit ratings than investor-owned utilities and power authority bonds are likely to receive higher ratings. For example, in January Fitch Ratings, wholesale public power systems had a median credit rating of A with a Stable credit outlook, while "competitive generation companies" had a median issuer default rating of BB- with a Negative credit outlook. [3]

A power authority can therefore play a valuable role as an additional source of funding or in the procurement of power in these uncertain markets and financial environment. Such an entity should not be seen, however, as the only solution. The achievement of the potential benefits of a power authority requires that the entity have a clear and well-defined mission, work in collaboration with existing regulatory bodies, and act as a complement to existing regulations and procedures rather than as a replacement. Moreover, we urge Connecticut and other states to continue to put pressure on FERC both directly and through their Congressional delegation to implement reforms to the wholesale markets to ensure that such markets provide benefits to consumers, and produce clean and reliable electricity service at rates that are just and reasonable.

State public power authorities have a proven record of success in efficiently providing reliable and affordable electricity with direct accountability to the citizens they serve. Attached to this statement is information regarding state public power authorities around the nation.

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[2] Connecticut Energy Policy: Critical Times - Critical Decisions, Robert McCullough Presentation to the House Energy and Technology Committee at the Connecticut General Assembly, April 1, 2008, http://www.mresearch.com/speeches.html.

[3] 2009 Outlook for Electric and Gas Utilities, Fitch Ratings, http://www.fitchratings.com/corporate/reports/report_frame.cfm?rpt_id=419492&sector_flag=2&marketsector=1&detail=

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Attachment 1: State Power Authorities Established Prior to 1950

Arizona Power Authority

The Arizona Power Authority was created by the Arizona legislature in 1944 in order to acquire and market the state's share of power produced by the Boulder Canyon Project (Hoover Dam and Power Plant). The Authority, however, is not limited to these activities, and its enabling legislation carries broad powers in the field of development and marketing of electric power. The Authority is empowered to acquire, construct, and operate necessary electric generation and transmission facilities and may issue revenue bonds to acquire and construct these facilities. The statute requires that the Authority be self-supporting and prohibits it from incurring any obligation that would be binding upon the State of Arizona. The Authority also may exercise the right of eminent domain.

Arizona Power Authority is governed by a five-member commission that is appointed by the Governor, subject to confirmation by the State Senate. The commission also serves as the Authority's regulatory body and has the exclusive authority to establish electric prices.

Currently, the Authority receives the state's allocation of Hoover Dam power under a contract with the Western Area Power Administration. The Authority markets and schedules the power to 39 power customers, including cities, towns, irrigation and electrical districts, and the Central Arizona Water Conservation District.

(More information on Arizona Power Authority is available at: www.powerauthority.org)

New York Power Authority

The Power Authority of the State of New York was created by the state legislature in 1931 to provide public ownership and control of the hydroelectric development of the St. Lawrence River. The authority is governed by a seven-member board of trustees who are appointed by the governor by and with the consent of the senate. NYPA receives no tax revenue, and finances construction of its projects through revenue bonds.

NYPA sells power to over 700 business and industrial customers, government agencies in New York City and Westchester County, the state's investor-owned utilities, the Long Island Power Authority, and 47 municipally-owned utilities and four rural electric cooperatives in New York. NYPA also serves public agencies in seven neighboring states.

The authority owns 18 generating facilities and more than 1,400 circuit-miles of high voltage transmission. It commits $100 million per year to energy efficiency programs,

and has been authorized, through legislation, to administer several power programs for economic development.

(More information on New York Power Authority is available at: www.nypa.gov)

Grand River Dam Authority

The Grand River Dam Authority was created in 1935 to be a conservation and reclamation district for the waters of the Grand River. GRDA's primary responsibilities are to oversee the Grand River's resources and to develop and generate water power and electric energy within the boundaries of the district. To achieve these purposes, GRDA has been granted a broad range of powers, including acquiring and owning property and exercising the right of eminent domain. GRDA also has the authority to issue revenue bonds, which are exempt from taxation by the state and any of its political subdivisions.

GRDA is governed by a seven-member board of directors. Three directors are appointed by the governor, two are appointed by the legislature (Speaker of the House and President Pro Tempore of the Senate) and two are ex-officio positions filled by the state cooperative and municipal utility associations.

GRDA operates three hydroelectric facilities and a coal-fired complex, and manage two lakes along the Grand River system. GRDA sells electricity at wholesale to municipal and cooperative utilities and to industrial customers in a 24-county service area in Northeast Oklahoma.

(More information on Grand River Dam Authority is available at: www.grda.com)

South Carolina Public Service Authority

The South Carolina Public Service Authority (Santee Cooper) was created by a 1934 act of the State Legislature. Santee Cooper's responsibilities, as defined in the legislation, include providing affordable electric power, developing the Santee, Cooper and Congaree rivers for navigations, reclaiming swamplands, and reforesting the watersheds of the rivers.

Its eleven-member board of directors is appointed by the governor and approved by the state Senate. Santee Cooper can raise capital by issuing bonds, but its obligations are not obligations of the State or of any of its political subdivision. The General Assembly has never appropriated tax-generated revenues for the design, construction, operation or maintenance of the Santee Cooper system. Santee Cooper also has the power of eminent domain.

Santee Cooper owns and operates generating and transmission assets to serve both wholesale and retail customers. The authority serves residential and commercial customers in three counties and provides power to 20 electric cooperatives, two municipal utilities and industrial customers throughout the state.

(More information on South Carolina Public Service Authority is available at: www.santeecooper.com

Lower Colorado River Authority

The Lower Colorado River Authority is a conservation and reclamation district created in 1934 by the Texas Legislature. Its purposes include providing reliable electric power supply, reliable water supply and flood control. In addition, LCRA monitors water quality in a 10-county statutory district.

LCRA is governed by a 15-member Board of Directors appointed for six-year terms by the governor, with the consent of the Texas Senate. LCRA may acquire property by condemnation, and may issue bonds exempt from taxation by the State or its political subdivision. However, it does not have the authority to levy or collect taxes, create any indebtedness payable by taxes or pledge the credit of the State.

LCRA owns and operates electric generating capacity consisting of coal-fired, natural gas-fired and hydroelectric generating plants, and operates more than 3,300 miles of transmission lines. LCRA sells wholesale electricity to more than 40 public power and cooperative utilities in a 29,809 square mile territory covering all or part of 53 counties. It also operates six dams and manages water supply along a 600-mile stretch of the Texas Colorado River.

(More information on Lower Colorado River Authority is available at: www.lcra.org)

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Attachment 2: New Public Power Authorities

Montana
HB 474 was signed by governor May 5, 2001, but the bill was rejected by voters in a November 2001 referendum. **Thus the Montana Power Authority only existed for a few months.** Since then, there have been additional attempts to create an authority to acquire generation and transmission facilities, but none has been successful.

Provisions of HB 474 that relate to the creation of a power authority included:
Sections 20 through 28 of the bill are effective July 1, 2001; these sections may be cited as the "Montana Power Authority Act." The bill establishes a Montana Power Authority, which consists of a seven-member citizen board. Members serve staggered 4-year terms.

The Montana Power Authority may:

- Purchase electricity from any wholesale power supplier to meet the load requirements of Montana consumers;
- Purchase, construct or operate generation, transmission or distribution facilities;
- Enter into joint ventures for the financing of electric facilities;
- Request the legislature to authorize the state board of examiners to issue revenue bonds for the construction or purchase of electric facilities; and
- Participate with a municipality in any generation project that meets the state's criteria for an industrial development project.

The Authority must sell purchased or generated power at cost-based rates.

The state board of examiners can issue up to $500 million in revenue bonds to construct or buy generation, transmission or distribution facilities. The bonds are backed by the pledge of the state, and are exempt from state and local taxation.

California
SB 6x was signed by the governor May 16, 2001. The act adds Division 1.5 (beginning with Section 3300) to the Public Utilities Code. The act establishes the California Consumer Power and Conservation Financing Authority, governed by a five-member board of directors. The board includes the state treasurer and four individuals appointed by the governor.

The Authority can use its powers to:

- Finance, purchase, lease, own, operate, or construct generating facilities and other projects, on its own or through agreements or joint ventures;
- Provide financial assistance for projects or programs;

- Finance programs for consumers and businesses to invest in cost-effective energy efficient appliances, renewable energy projects, and demand-reducing programs;
- Achieve an adequate energy reserve capacity in California within five years;
- Provide financing to retrofit power plants to improve their efficiency and environmental performance; and
- Exercise the power of eminent domain.

All generation-related projects financed by the Authority shall provide electricity to California consumers at cost-based rates. Any excess generation may be sold outside of the state.

The act also creates the California Consumer Power and Conservation Financing Authority Fund. The Authority can issue up to $5 billion in bonds, which will be secured by a pledge of revenues. The Authority can also obtain loans from the state's Pooled Money Investment Account (see section 16312 of the Government Code). Bonds issued by the Authority may be taxable or tax-exempt, and are not backed by the faith, credit or taxing power of the state or any of its political subdivisions.

The Authority cannot finance or approve any new program or project after January 1, 2007, unless the legislature extends the date. By January 1, 2005, the Bureau of State Audits shall evaluate the Authority's effectiveness and recommend whether there is a need for the Authority beyond January 1, 2007.

NOTE: It was determined that the Authority was providing only minimal value in meeting the state's energy objectives, and therefore the administrative operations of the Authority were terminated in October 2004. The Demand Reserve Program, established July 1, 2002 to compensate businesses for agreeing to reduce electricity consumption at times of peak demand, is the last Authority program and is scheduled to expire June 30, 2007. (This description was taken from the Governor's Budget Web site.)

Wyoming

SF 52 was signed by the governor March 5, 2004. The act creates Wyoming Statutes 37-5-301 through 37-5-307 and 37-5-401 through 37-5-408, effective July 1, 2004. HB 129, amending the act, was signed March 24, 2006.

The act establishes the Wyoming Infrastructure Authority, which is governed by a five-member board of directors appointed by the governor. Members are appointed for staggered 4-year terms.

The Authority's purpose is to diversify and expand the Wyoming economy by improving the state's electric transmission infrastructure and to facilitate the consumption of Wyoming energy by planning, financing, constructing, developing, acquiring, maintaining and operating transmission facilities, advanced coal technology facilities and advanced energy technology facilities. (Advanced coal and advanced energy facilities were added in the 2006 amendment.

The Authority may:

- Acquire properties by condemnation, except those items related to mineral and water properties;
- Receive money or assistance from any governmental entity;
- Operate, lease, rent and dispose of facilities that it constructs, and review every three years the feasibility of disposing of facilities it holds;
- Investigate, plan, prioritize and establish corridors for the transmission of electricity;
- Enter into partnerships with public or private entities.

Once the Authority has identified a need for facilities or services, it must give private entities the opportunity to provide the service. The Authority may proceed with its plans if no private entity comes forward or if the private entity has not begun work on the project within 180 days of notifying the Authority of its intent.

The Authority can borrow money and issue bonds that are exempt from taxation within the state of Wyoming. Bond payments shall be made solely out of revenues derived from the operation of the electric transmission facilities or from unexpended bond proceeds. Bonds issued are not obligations of the state of Wyoming or a Wyoming county or municipality.

The Authority can also issue bonds to finance transmission and other facilities not owned by the Authority. The aggregate amount of bonds issued for this purpose cannot exceed one billion dollars. These projects must be located at least partially within Wyoming.

Idaho

HB 106 was signed by the governor on March 15, 2005. The act amends Title 67 of the Idaho code by adding Chapter 89, Title 67, to create the Idaho Energy Resources Authority. A "trailer bill," SB 1192, signed by the governor on April 6, 2005, authorizes the Authority to provide non-utility generators financing for renewable energy generation projects. HB 32, signed by the governor March 20, 2007, adds distribution systems to the act's definition of facilities.

The Authority is governed by seven directors appointed by the governor and confirmed by the senate, who serve five year terms. The purpose of the Authority is to promote the development and financing of transmission, generation, and distribution facilities for the benefit of participating utilities. A participating utility may include any electric utility (including cooperative and municipally owned systems) that serves customers in the state and any entity that provides wholesale power or transmission services to the state's electric utilities. Another purpose of the Authority is to promote the development of renewable energy resources.

The Authority may:

- Own, purchase, or otherwise acquire generation, transmission, and distribution facilities;
- Construct, renovate, maintain, repair, operate, lease, and regulate transmission, generation, and distribution facilities;
- Sell, lease or otherwise provide to participating utilities the services or output of the facilities at rates designed to cover costs;
- Make loans to participating utilities to build facilities;
- Undertake and finance renewable energy generation projects developed by independent power producers; and
- Use the power of eminent domain, but not to acquire property of any of the state's utilities.

The Authority shall pursue development of these facilities through joint agreements with multiple utilities.

The Authority can issue bonds and borrow money. Bonds may be secured by revenues of the authority or by any part of the authority's assets. Neither the state nor any agency or subdivision of the state shall be liable for repayment of the bonds. Once all bonds issued to finance the cost of a facility are paid off, the Authority will convey title of the facility to participating utilities.

South Dakota

HB 1260 was signed by the governor on March 17, 2005. The act creates the South Dakota Energy Infrastructure Authority. Its purpose is to expand the state's economy by developing energy production and transmission facilities necessary to produce and transport energy to markets both within and outside of the state.

The Authority is governed by a five-member Board of Directors whose terms are not to exceed six years. The governor appoints the directors, and the directors cannot all be from the same political party.

The Authority may:

- Provide for the financing and development of new or upgraded energy transmission facilities;
- Acquire, hold, lease and dispose of real and personal property, and construct, maintain, operate and decommission electric transmission facilities;
- Enter into partnerships with utilities to develop such facilities;
- Plan and establish corridors for the transmission of electricity;
- Acquire property by condemnation;
- Accept, from any source, financial aid or contributions of money, property and labor; and
- Charge reasonable rates, developed after consultation with the Public Utilities Commission, for the use of all facilities administered by the Authority.

If the Authority owns transmission facilities, it shall divest itself of the facilities as soon as it has recovered its net investment.

The Authority may issue bonds, but the issuance must be approved by the legislature. Total outstanding bonds may not exceed one billion dollars. Bonds shall be secured by revenues pledged for their payment, and the state is not liable for payments on any bonds or other financial instrument issued by the Authority.

The Authority shall produce an annual report including recommendations on how to improve and promote generation in South Dakota and transmission to, from, and within the state.

Kansas

HB 2263, which incorporates HB 2045, was signed by the governor on April 18, 2005. The act amends KSA 66-105a, repealing the existing section, and adding new sections 1-13. It creates the Kansas Electric Transmission Authority. HB 2306, signed March 28, 2007, amended the act.

The Authority is governed by a seven-member Board of Directors. Three members are appointed by the governor and confirmed by the senate, and serve four-year terms. The chair and ranking minority member of the senate committee on utilities and the chair and ranking minority member of the house committee on utilities are *ex officio* members of the board, with full voting rights.

The Authority may:

- Plan, finance, construct, develop, acquire, and own transmission facilities;
- Contract for maintenance and operation of transmission facilities;
- Participate in partnerships or joint ventures, including for the purposes of financing projects;
- Recover costs through tariffs of the Southwest Power Pool RTO and by assessing fees to utilities that have benefited from construction or upgrades performed by the authority, as determined by the state corporation commission;
- Participate in and coordinating with planning activities of the Southwest Power Pool and adjoining RTOs; and
- Exercise the right of eminent domain.

The Authority may enter into agreements with the Kansas Development Finance Authority to issue revenue bonds to finance the construction, upgrading or repair of transmission facilities or the acquisition of right-of-way for such facilities. The facilities may or may not be owned by the Authority, and do not have to be wholly located within Kansas.

The Authority may not operate or maintain transmission facilities, and shall not build or finance projects if private entities are willing to do so. The Authority may only use its

powers in respect to transmission facilities that the Southwest Power Pool RTO has deemed compatible with the RTO's own plans.

North Dakota

HB 1169 was signed by the governor on April 22, 2005. The act creates the North Dakota Transmission Authority. It is governed by the North Dakota Industrial Commission.

The Authority's is to facilitate development of transmission facilities to support the production, transportation, and utilization of electricity produced in the state. It may:

- Make grants or loans, and accept grants or contributions from all sources;
- Enter contracts to construct, maintain, and operate transmission facilities;
- Lease, rent, and dispose of transmission facilities;
- Investigate, plan, prioritize, and propose corridors for transmission lines;
- Issue and sell bonds up to a total of $800 million;
- Participate in a transmission facility through financing, planning, joint ownership, or other arrangements.

Before constructing transmission facilities, the Authority must provide a 180-day period for other entities to provide a notice of intent to construct the facilities. If the Authority receives a notice of intent, it may not proceed with constructing the facilities itself unless it finds it to be in the public interest. The public interest finding shall consider: economic impact to the state, economic feasibility, technical performance, reliability, past performance, and the likelihood of successful completion and ongoing operation.

The Authority may issue bonds up to a total of $800 million. Bonds are not subject to state taxation, nor do they constitute a debt of the state of North Dakota.

New Mexico

HB 188 was signed by the governor on March 5, 2007. The act creates the New Mexico Renewable Energy Transmission Authority.

The Authority is governed by seven members: three members appointed by the governor; the state investment officer; the state treasurer; one member appointed by the speaker of the house; and one member appointed by the president pro tempore of the senate. One member appointed by the governor must have financial expertise in the area of electrical transmission projects, and the other four appointed members are to have knowledge of the public utility industry and renewable energy development. The secretary of energy, minerals, and natural resources also serves as an *ex officio* non-voting member.

The Authority may:

- Finance, plan, acquire, maintain, and operate transmission and storage facilities;
- Enter into partnerships with public and private entities;
- Participate in regional transmission forums to plan and coordinate for the establishment of interstate transmission corridors;

- Issue bonds, borrow money, and collect fees; and
- Exercise the power of eminent domain if it does not involve taking utility property.

Within one year of beginning operations, transmission or storage facilities built or financed by the Authority must have 30% of their electricity originating from renewable sources. Renewable sources include solar, wind, hydropower, geothermal, fuel cells that do not use fossil fuels, and biomass; electricity generated by fossil fuels or nuclear power is not eligible.

Bonds issued by the Authority shall be payable only from the revenues of the bonding fund, and are not obligations of the state. The bonds are also exempt from taxation by the state or any of its political subdivisions.

The Authority shall not build or finance projects if similar projects are already being pursued by utilities or private entities. In addition, there are restrictions on the Authority's ability to own or control transmission and storage facilities.

Colorado: HB 1150 was signed by the governor on May 23, 2007; a second bill, HB 1350, signed by the governor on May 27, 2008, amended the law.

The act establishes the Colorado Clean Energy Development Authority. The authority's purpose is to facilitate the production and consumption of clean energy and increase its transmission and use by financing projects for the production, transportation, transmission and storage of clean energy. The 2008 amendment allows the authority to finance energy efficiency and renewable projects in residential and commercial buildings.

The authority is a political subdivision and is governed by a nine-member board of directors. Four board members are appointed by legislative leaders, one is appointed by the governor and the remaining four are Ex Officio: the state Treasurer, the Director of the Office of Economic Development, the Commissioner of Agriculture and the Director of the Governor's office of Energy Management and Conservation.

The authority must convene task forces to develop recommendations, including whether hydro, certain clean coal technologies and certain biomass projects should be included in the definition of clean energy projects. The authority will use the recommendations to develop its three-year plans.

The authority has the right to enter into contracts and to issue bonds or other financial obligations. Bonds issued by the authority are exempt from taxation by the state, and do not constitute a debt of the state. Bonds are secured by revenue from the projects or other money in the authority's fund. The fund can accept gifts, grants and revenues paid by utilities and others using projects financed by the authority. The legislature may authorize the authority to include in a bond resolution a provision allowing the governor to request money from the general fund to be transferred to the fund upon certification by the

authority that it is necessary to meet debt service reserve levels. The legislature would have to approve any such transfer from the general fund. Under certain circumstances, voter approval is required to issue financial obligations requiring a multi-year payback.

Illinois: SB 1592 was signed by the governor August 28, 2007. The act reflects a rate relief settlement with the state's two major utilities following the large increase in rates when the retail choice transition period ended in January 2007. The act also eliminates the reverse power auction for investor-owned utility power supply and in its stead establishes the Illinois Power Authority to procure power for these utilities. The purpose of the agency is to:

- Ensure reliable electric service at the lowest total cost for the three major investor-owned utilities in Illinois;
- Conduct competitive procurement processes;
- Develop generation facilities that use indigenous coal or renewable resources; and
- Supply electricity from the agency's facilities at cost to governmental aggregators and municipal or cooperative electric systems.

The agency's two bureaus – Planning and Procurement Bureau and Resource Development Bureau – report to the director of the agency. The Planning and Procurement Bureau shall hire an expert to conduct a competitive procurement process, which must include renewable energy resources and meet the renewable portfolio standard of 25% by 2025. The Resource Development Bureau may develop, finance, construct or operate generating facilities that use indigenous coal or renewable resources. The bureau may enter into contracts with private entities and municipal electric systems to construct and operate these facilities. Power from the facilities may be sold, at cost, to governmental aggregators and municipal or cooperative electric systems. All power purchased from the agency's facilities must be sold to end-use consumers at the purchased-power price. The agency may sell excess capacity and energy into the wholesale electric market at prevailing market rates, but may not sell excess capacity or energy through the competitive procurement process.

The agency can enter into agreements with the Illinois Finance Authority to issue revenue bonds and the proceeds will be used for costs incurred in connection with development and construction of a generating facility. The maturity of the bonds must be no more than 40 years, and the bonds may be tax-exempt if the agency determines that tax-exempt status is appropriate. All indebtedness of the agency, including debt issued on its behalf by the authority, shall not be a debt of the State or any of its political subdivision, or of the authority itself; thus the debt is not backed by the taxing power of the state or political subdivision.

The agency may exercise the power of eminent domain, except over the property of any public utility or any person owning an electric generating plant. It may also enter into agreements to transfer any land, facilities or equipment to municipal electric systems, governmental aggregators, or electric cooperatives at a price and terms that the agency determines is in the public interest.